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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,401	12/12/2003	Yu Zheng	PAT-1486CIP2	2110

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Law Offices of Raymond Sun
12420 Woodhall Way
Tustin, CA 92782

EXAMINER

YIP, WINNIE S

ART UNIT	PAPER NUMBER
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3636

MAIL DATE	DELIVERY MODE
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07/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/735,401

Applicant(s)

ZHENG, YU

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/20/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to applicant's amendment filed on April 20, 2007 for a Request Continued Examination (RCE) of earlier application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-19 have been cancelled, and claims 20-39 are pending in the application.

Claim Objections

1. Claims 28 and 35 are objected to because of the following informalities:

In regard to claim 28, the phrase "**collapsible** frame member" (lines 10 and 12) lacks a same terminology with the term "**a frame memberhaving a folded and an unfolded configuration**" as previously defined. Appropriate correction is required.

In regard to claim 35, the term "the **collapsible** frame member" (line 3) lacks a same terminology with the term "**a coilable** frame member" (line 2). Appropriate correction is required.

Double Patenting

2. Claims 20-34 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2, 6-8, and 12 of copending Application No.10/665,194. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter claimed in the instant application is fully encompassed in the patents and is covered by the patents since each patent and the application are claiming common subject matter, as follows: a wall panel/an annular having a top portion and a bottom portion define the an annular rim member having central opening, a sleeve

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coupling or retaining the wall panel or the rim, first and second foldable frame members, a flexible and waterproof material attached to the first and second frame members by sleeves and to define a containing member to be capable receive a liquid, and a inflatable tube disposed on the wall panel as claimed except different wordings.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. Claims 20-34 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. **6,901,940**. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter claimed in the instant application is fully encompassed in the patents since each patent and the application are claiming common subject matter, as follows: an apparatus/a collapsible structure comprising a wall panel formed by a frame member covered by a waterproof sheet, a base panel including a waterproof bottom sheet coupled to the wall panel to define an interior spacer for receiving fluid therebetween, and a inflatable tube disposed at the top portion of the wall panel in the combination or subcombination claims except with different wording arrangement. Claims 20 and 28 -29 of the application are **generic** to all that is recited in claims 1, 8-10, 13-14, and 17-18 of said patent. In the other work, claims 1-24 of said patent fully encompasses the subject matter of claims 20-34 of the application, and therefore anticipates claims 20-35 of the application.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See MPEP § 804.

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6. Claims 35-39 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. **6,901,940**. Although the conflicting claims are not identical, they are not patentably distinct from each other because the '940 patent teaches each the elements of the instant claims except the steps of method of using the apparatus which would have been an obvious to one having ordinary skill in the art to assembling the collapsible structure of '940 patent with the steps as claimed.

Claim Rejections - 35 USC § 103

4. Claims 20-21, 24-28, 35-39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw '437 in view of Wyllie (US Patent No. 2,854,049) .

Shaw et al. teaches a collapsible container comprising: a circular wall panel (12) having a top portion and bottom portion, a tubular floating member (15) disposed at the top portion of the wall panel, a base panel (11) defining a periphery, the bottom of the wall panel coupled to the periphery of the base panel, the base panel (11) and the wall panel (12) are made of sheets of waterproof material/liquid impermeable material (col. 3, lines 21-24), the lower edge of the wall panel (12) is attached to the periphery of the base panel by any known manner such as by heat seal or stitching such that the wall panel and the base panel define an interior space configured to receive a fluid (see col. 3, lines 25-30), a liner member (16) being attached to the wall panel (12) and the base panel (11) to form a sleeve between the liner member and the bottom portion of the wall panel or the periphery of the base panel by suitable fasteners, a collapsible frame member (14) being made of a continuous loop of composed of flexible resilient material having a folded and unfolded configuration, the collapsible frame member (14) being retained in the sleeve

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which is coupled to the bottom portion of the wall panel (12) and the periphery of the base panel by stitching (see Fig. 3) as claimed such that the floating member (15) acts to raise wall panel (12) as liquid fills the interior of the container. Although, Shaw does not define the tubular floating member (15) being an inflatable tube having inflated configuration and a deflated configuration. Wyllie teaches a collapsible liquid container comprising a wall panel (8), a base panel (2), and an inflatable tube (10) formed at a top portion of the wall panel, the inflatable tube (10) being inflated through inflation valves (see col. 2, lines 9-10) such that the inflatable tube raises the wall panel when the liquid filling up the interior space of the container. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the collapsible container of Shaw et al. having the tube disposed on the top portion of the wall panel being formed with inflation valves as taught by Wyllie instead of a inserted floating member such that the tube can be inflated and deflated for easily collapsing the container into a small configuration for storage and placing the container in opening position.

Regard to claim 21, Shaw as combined with Wyllie is considered to have the container being capably configured as a "pool" as claimed. Notice, the "pool" is only a name of intended to be use and does not give a lot of patentability weight there on.

5. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw in view of Wyllie '049 as applied to claims 20 above, and further in view of Gillebaard, Jr. (US Patent No. 5,592,702).

Shaw does not specifically define show the collapsible frame member (14) is coupled to the periphery of the base panel or the bottom of the wall panel. Wyllie teaches a container

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having a sleeve formed from a sleeve material folded over and along the edge wall panel and the base panel. And, Gillebaard, Jr. teaches a container used to be a pool having a wall panel (20) and a base panel (32) made of waterproof material, wherein the bottom of the wall panel being coupled to the outer periphery of the base panel by sealing tight connection, and having a sleeve (61) formed by a sleeve material being folded over from the bottom of the wall panel and being stitched thereon for retaining a frame member (60) therebetween such that the frame member holding the base panel to the support surface. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the collapsible container of Shaw as modified by Wyllie having a sleeve formed by a folded over material by stitching or other fastening manner at either the bottom of the wall panel or the outer periphery of the base panel as taught by Gillebaard, Jr. as a old holding manner for retaining the collapsible frame member therein such that to retain the base panel of the container in an unfolded configuration.

6. Claims 23 and 29-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw '437 in view of Wyille '049, and further in view of Ivanovich et al. (US Patent No. 5,163,461).

The claims are considered to meet by Shaw as modified by Wyille as explained and above rejections except that Shaw does not define the collapsible frame member having two ends being coupled together by a connector to form a continuous loop as claimed. Ivanovich et al. teaches a collapsible structure comprising a plurality of collapsible frame members each having ends being coupled together by a connector (51 or 54 or 52) to form a continuous loops of frame member which can be folded and unfolded. It would have been obvious to one ordinary skill

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in the art at the time the invention was made to modify the collapsible container of Shaw combined by Wyllie having the collapsible frame member having ends being coupled together by a connector as taught by Ivanovich et al. as a obvious coupling mechanism for forming a continuous loop of frame member to be retained inside of the sleeve for holding and retaining the panels of the container in an unfolded position and can be folded into a storage position.

Response to Arguments

7. Applicant's arguments, filed April 20, 2007, with respect to the rejection of claims 35-39 under 35 U.S.C. 112, first paragraph, have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

8. In response to applicant's argument with respect to the rejection to claims 20, 28 under 35 U.S.C. 103 (a) as being unpatentable over Shaw '437 in view of Wyllie '049 has been fully considered but they are not deemed persuasive.

First, in response to applicant's argument that Shaw does not have "a sleeve coupled to at least one of the bottom portion of the wall panel or the periphery of the base panel" as claimed, it is not deemed persuasive. Notice, applicant claims the sleeve coupled to "**at least one of**" the bottom portion of the wall panel or the periphery of the base panel. As discussed set forth above rejection, Shaw teaches a collapsible apparatus comprising a "lower edge of the wall (12) is attached to the perimeter of the bottom (11) in any known manner (e.g. adhesive, stitching, hear sealing)" and a frame (14) being "connected adjacent to or incorporated in the perimeter of the bottom wall or the lower edge of the wall" (see col. 3, lines 41-45). Shaw further teaches (see Fig. 3), the collapsible apparatus may have a liner (16) connected to the bottom portion of the

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wall panel (12) and the periphery of the base panel to define a space along the corner between the two panels to retain the frame member (14) therein. Therefore, it is examiner's position to broadly interpret that Shaw teaches the apparatus comprising a sleeve (such as the elongated space) to retain a frame (14) therebetween, wherein **the sleeve** is formed by the liner (16) coupled to **both**, or in another word, couple to **at least one** of the bottom portion of the wall panel (12) and the periphery of the bottom panel (11) by any suitable fasteners such as by stitching (see col. 13, lines 41-45) (an illustration above) as claimed.

Second, in response to applicant's argument that there is no suggestion to combine the references of Shaw and Wyllie, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references to Shaw and Wyllie teach an apparatus for containing a liquid therein, the apparatus comprising a tubular member disposed on an upper portion of a wall panel to provide a floating member to allow the wall panel being erected when the liquid is placed inside of the apparatus. Therefore, the two of the references address the same problem of erecting the wall panel of the apparatus when the liquid is placed inside of the apparatus. Regardless, one of ordinary skill in the art would have more than a reasonable expectation of inflatable ring since would not affect function of the floating member to erect the apparatus but to achieve the result of easily to reducing storage area as desired. The

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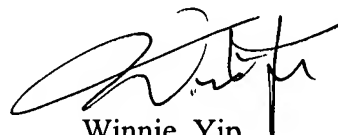
obviousness modification of Shaw 's apparatus by Wyllie is, therefore, established and the rejections are sustained.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Winnie Yip
Primary Examiner
Art Unit 3636

wsy
July 3, 2007